(3) A means, through a criminal record review and a safety and security check, to determine whether the holder of a merchant mariner's document would be a threat to the safety of life or property at sea, or his or her presence would be adverse to the security of the United States.

(b) The regulations in subpart 12.03 of this part prescribe the requirements applicable to all training and assessment associated with meeting the standards of competence established by STCW.

(c) Continuous discharge books and merchant mariner documents are issued by the Coast Guard and are property of the Coast Guard.

[CGD 95–062, 62 FR 34534, June 26, 1997, as amended by USCG-1999–5610, 67 FR 66068, Oct. 30, 2002; USCG-2003–14500, 69 FR 531, Jan. 6, 2004]

§ 12.01–3 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the FEDERAL REGISTER and must ensure that the material is available to the public. All approved material is available for inspection at the U.S. Coast Guard, Office of Operating and Environmental Standards, room 1210, 2100 Second Street SW., Washington, DC, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/ federal_register/ code_of_federal_regulations/ ibr_locations.html.* All material is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are as follows:

International Maritime Organization (IMO), 4 Albert Embankment, London, SE1 7SR, England. The STCW—International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 and 1997 (the STCW

Convention, or the STCW)—and Seafarers' Training, Certification and Watchkeeping Code (the STCW Code), approved for incorporation by reference in sections 12.01–1; 12.01–6; 12.02–7; 12.02–11; 12.03–1; 12.05–3; 12.05–7; 12.05–11; 12.10–3; 12.10–5; 12.10–7; 12.10–9; 12.15–3; 12.15–7; 12.25–45; 12.30–5; and 12.35–5 of this part.

[USCG-1999–5610, 67 FR 66068, Oct. 30, 2002]

§ 12.01–6 Definitions of terms used in this part.

Approved means approved by the Coast Guard in accordance with 46 CFR 10.302.

Coast Guard-accepted means that the Coast Guard has officially acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

Conviction means the applicant for a merchant mariner's document has been found guilty by judgment or plea by a court of record of the United States, the District of Columbia, any State, territory, or possession of the United States, a foreign country, or any military court, of a criminal felony or misdemeanor or of an offense described in section 205 of the National Driver Register Act of 1982, as amended (49 U.S.C. 30304). If an applicant pleads guilty or no contest, is granted deferred adjudication, or is required by the court to attend classes, make contributions of time or money, receive treatment, submit to any manner of probation or supervision, or forgo appeal of a trial court's conviction, then the Coast Guard will consider the applicant to have received a conviction. A later expungement of the conviction will not negate a conviction unless the Coast Guard is satisfied that the expungement is based upon a showing that the court's earlier conviction was in error.

Designated examiner means a person who has been trained or instructed in techniques of training or assessment